

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2562

AN ACT

AMENDING SECTION 41-2115, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF WEIGHTS AND MEASURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-2115, Arizona Revised Statutes, is amended to
3 read:

4 41-2115. Civil penalties

5 A. A person who violates this chapter, any rule of the department or
6 any license requirement is subject to a civil penalty imposed by the
7 director. A person who violates this chapter, any rule of the department or
8 any license requirement may request a hearing to review a civil penalty
9 imposed under this section. The department shall conduct the hearing in
10 accordance with chapter 6, article 10 of this title. Except as prescribed in
11 subsection B OR C of this section, the civil penalty shall not exceed five
12 hundred dollars for each infraction nor more than five thousand dollars for
13 any thirty day period at each business location, for each registered service
14 representative or for each public weighmaster, provided that no person shall
15 be assessed more than fifty thousand dollars per thirty day period.

16 B. The director may double the maximum civil penalty if any of the
17 following ~~apply~~ APPLIES:

18 1. A commercial device is found to be in violation with results that
19 favor the retailer at more than twice the allowable tolerance as stated in
20 national institute of standards and technology handbook 44.

21 2. A package is found to exceed the maximum allowable variation for
22 the labeled quantity allowed in national institute of standards and
23 technology handbook 133 or the average error of the lot is twice the sample
24 error limit in favor of the retailer.

25 3. A stage II vapor recovery system reinspection fails the required
26 tests.

27 4. A maximum civil penalty has been imposed on a retailer for a price
28 posting or price verification violation and in a reinspection, if conducted
29 within ninety days, the failure rate is ten per cent or more and at least one
30 error is in favor of the retailer.

31 5. A MAXIMUM CIVIL PENALTY HAS BEEN IMPOSED ON A REFINER, REFINERY,
32 REGISTERED SUPPLIER OR TRANSMIX PROCESSING FACILITY FOR A VIOLATION OF MOTOR
33 FUEL QUALITY STANDARDS OR PRODUCING A PRODUCT TRANSFER DOCUMENT THAT IS
34 INCORRECT, INCOMPLETE OR PRODUCED IN ANY MANNER TENDING TO MISLEAD OR DECEIVE
35 A PERSON.

36 C. IF A PERSON COMMITS THE SAME VIOLATION AT THE SAME BUSINESS
37 LOCATION FIVE SEPARATE TIMES WITHIN A ONE YEAR PERIOD, THE CIVIL PENALTY FOR
38 THE SIXTH VIOLATION IS TWO HUNDRED FIFTY THOUSAND DOLLARS. FOR EACH
39 SUBSEQUENT VIOLATION IN THE SAME ONE YEAR PERIOD FOR THE SAME VIOLATION AT
40 THE SAME BUSINESS LOCATION, THE DIRECTOR MAY ASSESS A CIVIL PENALTY UP TO THE
41 AMOUNT OF THE PRIOR CIVIL PENALTY PLUS FIFTY THOUSAND DOLLARS.

42 C. D. The attorney general shall bring actions to recover civil
43 penalties pursuant to this section in the superior court in the county in
44 which the violation occurred or in a county where the agency has its
45 office. All monies derived from civil penalties shall be deposited, pursuant
46 to sections 35-146 and 35-147, in the state general fund.